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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,585	07/15/2003	Bruno Jechoux	240451us-2 DIV	6884
22850	7590	05/05/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			NGUYEN, KHAI MINH	
			ART UNIT	PAPER NUMBER
			2687	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/618,585

Applicant(s)

JECHOUX ET AL.

Examiner

Khai M Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/15/03, 10/10/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been of record in the file.

### ***Information Disclosure Statement***

2. The references listed in the Information Disclosure Statement filed on July 13, 2003 and October 10, 2003 have been considered by the examiner (see attached PTO-1449 form or PTO/SB/08A and 08B forms).

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 2-22 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of

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copending Application No.10/460186. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claim 2-19, claims 2-12 of U.S. Application No. 10/460186 teaches a method for communicating information representative of a number of spreading codes allocated to at least one mobile station in communication with a base station of a mobile telecommunication system, comprising: selecting one or more midambles from a set of available midambles in accordance with a value of a binary element of a binary word representative of said number, wherein said available midambles are shifted versions of a basic midamble; and transmitting the selected one or more midambles as being representative of said binary word. However, claims 2-12 of U.S. Application No.10460186 teaches **number of spreading codes encompass transmission parameter.**

Regarding claim 20, claim 13 of U.S. Application No. 10/460186 teaches a base station for a mobile telecommunication system, said base station configured to select one or more midambles from a set of available midambles in accordance with a value of a binary element of a binary word representative of a number of spreading codes allocated to at least one mobile station in communication with said base station, wherein said available midambles are shifted versions of a basic midamble, said base station further configured to transmit the selected one or more midambles as being representative of said

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binary word. However, claims 2-12 of U.S. Application No.10460186 teaches **number of spreading codes encompass transmission parameter.**

Regarding claim 21, claim 14 of U.S. Application No. 10/460186 teaches a mobile telecommunication system comprising: a base station; and at least one mobile station in communication with the base station, wherein the base station is configured to select one or more midambles from a set of available midambles in accordance with a value of a binary element of a binary word representative of a number of spreading codes allocated to the at least one mobile station, wherein said available midambles are shifted versions of a basic midamble, said base station further configured to transmit the selected one or more midambles as being representative of said binary word. However, claims 2-12 of U.S. Application No.10460186 teaches **number of spreading codes encompass transmission parameter.**

Regarding claim 22, claim 15 of U.S. Application No. 10/460186 teaches a mobile station for a mobile telecommunication system, wherein the mobile station is configured to receive one or more midambles transmitted from a base station in communication with the mobile station, to correlate the received one or more midambles with a sequence based on a basic midamble code, and to form a received binary word representative of a number of spreading codes allocated to

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at least one mobile station in communication with said base station, wherein a value of a binary element of said received binary word is determined from one of the presence and the absence of a channel estimation at a temporal position in the correlation result, and said one or more midambles transmitted from said base station is selected from a set of available midambles in accordance with a value of a binary element of a binary word representative of said number of spreading codes, and said available midambles are shifted versions of said basic midamble. However, claims 2-12 of U.S. Application No.10460186 teaches **number of spreading codes encompass transmission parameter.**

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai M Nguyen whose telephone number is 571.272.7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571.272.7922. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khai Nguyen  
Au:2687

4/19/2005

 4/29/05  
**ELISEO RAMOS-FELICIANO**  
**PATENT EXAMINER**